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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/616,821 07/14/00 SLEMMER

W 93-C-00702RE

EXAMINER

MM91/0328

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CARROLLTON TX 75006-5039

CUNNINGHAM, T
ART UNIT PAPER NUMBER

2816
DATE MAILED:

03/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/616,821

Applicant(s)

SLEMMER, WILLIAM CARL

Examiner

Terry D. Cunningham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 and 48-55 is/are allowed.
- 6) ☒ Claim(s) 24-47 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Original Patent

The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Objection to Amendment

The preliminary amendment filed 07/14/00 is objected to as having improper margins. The margins on the top of the page were not sufficient to allow holes to be punched therein, thus causing holes to be punched through claim text. Therefore, Applicant is hereby required to submit an amendment with the response that is in compliance with 37 C.F.R. § 1.52 (see also M.P.E.P. § 601) that contains all of claims 24-55, whether or not such are amended.

Drawings

The drawings are objected to as containing extraneous marks. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 28-47 are rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure which is not enabling. In claims 29-39, generation of third and fourth currents is deemed critical or essential to the practice of the invention, but is not included in the claim(s). In claims 40-47, generation of a fourth current is deemed critical or essential to the practice of the invention, but

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is not included in the claim(s). An arrangement lacking these features is not enabled by the disclosure since it cannot be understood from the specification how the circuit will operate without such. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). It is noted that only disclosed invention is seen to be a circuit that generates four currents which are summed to provide an output voltage to be detected.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 28, there is no support found in the specification for only generating two currents. Further, there is no support found in the specification for “combining” these two currents to create “a reference current”.

Claims 29-35 are rejected for the reasons discussed above with claim 28.

Claims 36-39 are rejected for similar reasons as claims 28-35.

In claim 40, there is no support found in the specification for only generating three currents. Further, there is no support found in the specification for “combining” these three currents to create “a reference current”.

Claims 41-44 are rejected for the reasons discussed above with claim 40.

Claim 45 is rejected for similar reasons as claim 40. Also, there is no support found in the specification for the step of “comparing” in line 4. The specification only sets forth combining currents onto a node.

Claims 46 and 47 are rejected for the reasons discussed above with claim 45.

Recapture

Claims 24-27 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

In the response filed 11/07/96 in the parent application 08/932,930, Applicant states concerning the applied reference that “[t]here is no indication or suggestion that the current sources 110 or 116 of Bingham supply independent current according to the bandgap equation recited in Application’s independent claims”. It is seen in the corresponding amendment that the definition of the constants “K1, K2 and K3” was modified to being “determined by a resistance and a transistor length...” Since the definition of the constants “K1, K2 and K3” of the equation is seen to be part of the “bandgap equation” and since Applicant was arguing concerning the “equation”, it is seen that these arguments were with respect to the amendment provided to overcome the rejection. Therefore, this subject matter was surrendered by the Applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 28-39 are rejected under 35 U.S.C. §102(b) as being anticipated by Pirez et al. Pirez et al. disclose a circuit comprising: “generating a first current (with 14 and 54)”; “generating a second current (with 12 and 52)”; and “combining the “first and second currents (with the node providing I_{bias})”, all connected and operating similarly as recited by Applicant.

Claims 28-47 are rejected under 35 U.S.C. §102(b) as being anticipated by Ichimaru. Ichimaru discloses, in Fig. 1 a circuit comprising: “generating a first current (with 3)”; “generating a second current (with 5)”; “generating a third current (with R_o)” and “combining the “first, second and third currents (with N_o)”, all connected and operating similarly as recited by Applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terry Cunningham whose telephone number is (703)308-4872. The examiner can normally be reached on Monday-Thursday from 7:30 to 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Callahan, can be reached on (703)308-4876. The fax phone number for this

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Group is (703)308-7722. Please note, any faxed paper clearly stating **DRAFT** or **PROPOSED AMENDMENT** at the top will be forwarded directly to the Examiner. All others will be treated as a formal response and acted upon accordingly.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0956.

TC
March 24, 2001


Terry D. Cunningham
Primary Examiner
Art Unit 2816